

July 20.

# COMMERCIAL PRIVILEGES FOR FISHING VESSELS.

## Not Conferred By Fishery Article of Treaty of 1818.

### United States Claim They Should Be Exempt From Light Dues.

(From Our Special Correspondent.)

Whether the inhabitants of the United States can be required, when exercising the liberties of fishing granted by the treaty of 1818, to be subjected, without the consent of the United States, to the requirements of entry or report at custom houses of the payment of light or harbor other dues, or to any other similar requirement or condition or exaction, formed the third question submitted by the respective governments for a decision by the tribunal now sitting at The Hague.

The British case as presented states the issues raised by question, as follows:

"The liberties referred to in this section are:

- "1—Liberty to take fish on certain coasts, bays, harbors and creeks; and
- "2—Liberty to 'dry and cure fish' in certain unsettled bays, harbors and creeks, that is, upon the shore.

"3—In addition to these two liberties, the United States asserts that its fishermen are entitled to have, for their fishing vessels, the same commercial privileges as are accorded by agreement or otherwise to United States trading vessels generally."

With reference to the supposed third issue, Senator Turner said the United States has never asserted that commercial privileges for its fishing vessels constitute any part of the liberties referred to in the first article of the treaty of 1818. That article neither denies nor confers commercial privileges, and hence during the period of non-intercourse, when neither fishing nor other fishing vessels were permitted to touch and trade at these British North American ports, they were not entitled to that privilege, but when the treaty of non-intercourse was abrogated, there was nothing in the treaty which debarred fishing vessels when duly authorized in that behalf, to touch and trade, that is, the United States chose to authorize its fishing vessels to touch and trade—not that the treaty of 1818 conferred that privilege, but there was nothing in the treaty of 1818 which prevented the exercise of the privilege.

#### Only Two Liberties Were Conferred by the Treaty.

The liberties conferred by the treaty were but two, the right of fishing and the right of curing and drying fish. Commercial privileges for its fishing vessels accruing out of the acts of the two governments alluded the treaty, and having no relation to it, except that Great Britain has from time to time attempted to found some principle of the exclusion of the treaty, and the United States has always denied that there was any principle of exclusion in the treaty.

Further, when the United States has authorized its fishing vessels to touch and trade, and they have been accorded that privilege, it has never insisted on their immunity from regulations and requirements of the British ports applicable to ordinary trading vessels. It has only been when fishing vessels were denied commercial privileges that the United States have denied their liability to the exactions and restrictions of the local government.

#### Commercial Privileges Not Granted By Treaty.

The United States disclaims that commercial privileges form any part of the liberties referred to in the article relating to the fisheries in the treaty of 1818, and it admits the liability of its vessels, when authorized to and permitted to enjoy commercial privileges, to the requirements of the British ports specified in question three.

But it contends that its fishing vessels pure and simple are not properly subject to these requirements. And that contention, and the negative of that contention on the part of Great Britain, is the issue, and the sole issue, raised under question three.

#### Fishing Vessels on Different Footing From Trading Vessels.

The language of question three does not bring into the construction of the question any assertion of a liberty to go there and touch and trade without complying with those requirements and exactions, because the liberty to touch and trade is not a liberty that the United States has ever founded or now attempts to found on the treaty of 1818. The imposition of the requirements and exactions mentioned in question three on fishing vessels exercising such rights as those conferred by the treaty of 1818 would not be consonant with the principles of international law.

As against that principle, Great Britain opposes the general proposition that she does require commercial vessels visiting her ports to make these reports at the custom houses, and that she does require them to submit to the payment of light, harbor and other dues. It seems manifest to the United States, however, that there is not a parallel between the two cases.

Commercial vessels generally coming into the ports of a country come there by virtue of the principle of comity, which may or may not be carried out by treaty regulations. It is a matter of privilege if they are permitted to come into ports of any country, and the government to which those ports belong may attach to that privilege any conditions that they please. For that reason the practice with reference to commercial vessels generally has no pertinency here, where the United States goes to these treaty coasts not as a matter of privilege, but as a matter of right which it exercises by virtue of its own sovereignty.

#### Treaty Silent As to Any Restrictions On Fishing Vessels.

The treaty itself is silent on the subject of exactions and restrictions which might be imposed on fishing vessels visiting the treaty coasts for the purpose of fishing. But these bleak and barren shores, which were without population in 1818 were until a comparatively recent period limited in every possible way in settlement, speak the true intent of the treaty. They show us that neither of the two governments nor their representatives considered there would ever be any necessity for American fishing vessels visiting these coasts to conform to customs regulations or to pay harbor or light dues. And in connection with the significant silence of the treaty on the subject, they show that the negotiations never contemplated the imposition of such regulations and restrictions, and hence the treaty never contemplated anything of the kind.

It is the manifest spirit and purpose of the treaty that considering the nature and character of the coasts on which these fishing rights were granted, the manner in which the coasts were regarded, the policy pursued towards them by their sovereign, the necessities of fishing vessels, their small value and the indulgence with which the fishing pursuit was and is generally regarded, that silence in the treaty regarding exactions and restrictions to be imposed upon fishing vessels when exercising their treaty rights, was equivalent to a declaration that they were not to be subjected to such exactions and restrictions. Great Britain neither expected nor desired that conditions would arise on the treaty coasts which would make such exactions and restrictions desirable or necessary; and certainly no such conditions existed when the treaty of 1818 was entered into.

#### Fishing Vessels Favored Class in International Law.

Fishing vessels are in a special class, and are objects of peculiar solicitude in international law. They are not molested in case of war. The men who engage in the avocation are generally poor. Their vessels and equipment are of but little value, and the returns which reward their ventures are incommensurate with the labors and dangers which attend them. They must move freely and without burdensome restrictions if their ventures prove remunerative at all.

Moreover, the fishery with them is a lifelong vocation, they know nothing else, and are unfitted for anything else. They must return to the fishing coasts again and again, and thereby brave both detection and punishment for any fraud which they might be disposed to commit on the revenue, which frauds at the worst would be of a trifling character.

These considerations are all factors which must have entered into the minds of the men negotiating such treaties as this of 1818, and which in the absence of restrictive provisions would negative any purpose to require even on uninhabited coasts that the fishing vessels enter and clear every time they come within territorial waters or that they be burdened with onerous dues which they can ill afford to pay, and from which vessels of their class are generally exempt.

#### United States Fishermen Should Have Same Exemptions as French.

At the time the treaty was entered into, British fishing vessels resorting to Newfoundland were exempted from all but nominal dues. And Newfoundland it would appear when finally invested with the powers of government laid a small tonnage tax on fishing vessels for the support of light-houses, but even that tax was abrogated in 1899. These were levied as a tonnage tax on the vessel and not specifically as light dues.

The act of 1904 makes the law conform to French fishing vessels just as it does to local fishing vessels, probably as the consequence of the treaty of 1904, in which it is said that the French fishing vessels or that the French fishery is to be treated on a footing of equality with the British fishery.

The United States insists upon this treatment of the French fishing right as an evidence of the view of the government of Newfoundland, that foreign nations exercising rights under such treaties as that of 1904 between Great Britain and France and certainly under the much more exacting treaty of 1818, between the United States and Great Britain, should not be subjected to restrictions and exactions which the local vessels were not subject to.

#### United States Claim Admitted in Modus Vivendi Negotiations.

If fishing on terms of equality involves the necessary exemption of French fishing vessels from these light dues then the right of fishing in common, which presupposes an equal right whatever view may be given to the meaning of the term in other respects, would require the same exception.

And the statement of Sir Edward Gray, who admitted the injustice of imposing light dues on American fishing vessels when talking of the *modus vivendi*, not only applies with full force to the status which was then being established by the *modus vivendi*, but also to the status established by the treaty of 1818, under which it certainly cannot be claimed that the American fishing vessels were not to have as great a right at least as the British vessels in those waters.

#### Conditions Cannot Change Meaning of Treaty.

Now, it may be admitted, that conditions have materially altered since 1818, and that there ought to be a larger measure of supervision and restriction on vessels than was contemplated in 1818, but that admission cannot carry with it the absolute right to impose those restrictions. The meaning of a treaty cannot be changed because conditions have changed; and, what the treaty meant in 1818 with reference to the right to impose these restrictions and exactions, it means today, the only remedy being an appeal to the comity and sense of justice of the nations exercising such a right as this to agree upon reasonable regulations, under which the interests of the home government may be properly preserved.

What the treaty of 1818 meant with reference to the imposition of restrictions and exactions in the year 1818, it means in this year 1910; and, while conditions may have arisen there which would appear to make it hard and inequitable to continue to pursue the right without reference to the necessities of the local government, which changed conditions had brought about, yet the matter of curing that inequitable condition is a free and frank and just arrangement between the two parties to readjust their rights according to changed conditions, rather than an attempt to give a construction to the treaty which it would not have borne in the year 1818, and there has never been any disinclination on the part of the government of the United States to meet the government of Great Britain in the very fullest and fairest and friendliest spirit upon this subject, as upon every other subject connected with the arrangement of these fisheries.

Now, passing on, the Tribunal will remember that the United States expressly disclaims that the treaty of 1818 gives it any commercial privileges; it never has claimed that and does not claim it now. That eliminates any consideration of the right of vessels of the United States, whether they are fishing vessels or any other class of vessels, to resort to Newfoundland waters for the purpose of trading.

It expressly eliminates from consideration the question as to their subjection to the impositions and restrictions, the right to impose which is claimed in question three. The question is confined, as the United States insists it must be confined, to those fishing vessels which simply go to the treaty water for the purpose of fishing.

July 21.

## STOCKED \$11,242 IN TWO TRIPS.

### Shacking Record Beaten By Sch. Thomas S. Gorton.

For two successful shackfishing trips that were made in three months, Capt. William H. Thomas of sch. Thomas S. Gorton breaks the record.

On the trip which is just completed, he landed 210,000 pounds of salt and fresh cod, from which a stock of \$5642.44 was realized, the crew sharing \$157.55 each.

Capt. Thomas sailed on his first trip April 21 and has been just three months to a day. The first trip he landed 254,000 of salt and fresh cod, stocking \$5600, while the crew shared \$142.50 each.

For the two trips he has landed 464,000 pounds of salt and fresh cod, making the remarkable stock of \$11,242, while the crew have shared \$300.05 each.

Such a record as this has probably never been beaten in this branch of the fishing industry.

Capt. Thomas is one of the most modest and successful skippers that ever sailed out of this port, and the crew he carries go with him year after year, and can be relied upon as trustworthy, as well as good fishermen.

Capt. Thomas has a host of friends who are glad of his unbounded success.



July 21.

## BOSTON FISH PRICES WEAK.

### Although Small Number of Fares Are at T Wharf.

Receipts of fish at Boston today are light, as only seven or eight vessels have arrived since last report. The market price, however, is weak, caused by the heavy production the first three days of this week.

While most of the vessels today are from off shore, their fares nevertheless are light, with one exception, which has a large fare of 100,000 pounds of mixed fish.

As at Gloucester, the shore boats are loading but few fish, while the drifters which are running their catch fresh to market, are landing more fish than for some time.

There is neither swordfish nor mackerel at Boston today, which is something unusual, that none of the former have made their appearance.

The fares and prices in detail are:

#### Boston Arrivals.

Sch. Juniata, 4000 haddock, 13,000 cod.  
Sch. Mary E. Silveira, 11,000 haddock, 29,000 cod, 4000 hake.  
Sch. Fannie Belle Atwood, 20,000 haddock, 17,000 cod.  
Sch. John J. Fallon, 23,000 haddock, 3000 cod, 14,000 hake.  
Sch. E. C. Hussey, 36,000 cod, 7000 pollock.  
Sch. Good Luck, 33,000 cod.  
Sch. Clara G. Silva, 30,000 haddock, 40,000 cod, 18,000 hake, 25,000 cusk, 7000 pollock, 500 halibut, 28 swordfish.  
Sch. Mary T. Fallon, 27,000 haddock, 10,000 cod.  
Haddock, \$1.50 to \$2 per cwt.; large cod, \$2 to \$2.25; market cod, \$1.35 to \$2; hake, \$1; pollock, \$1 to \$1.50; halibut, 11 cts. per lb.

July 21.

## NO MACKEREL ON MAINE COAST.

### Schools on the Rips Small and Wild.

Two of the seining fleet are at this port this morning, sch. Electric Flash with 2000 large fresh mackerel, which were sold to the Gloucester Fresh Fish Company at 34 cents each and sch. Benjamin A. Smith with no fish.

The skippers report quite a body of fish the last few days on the Rips and vicinity, but they were wild and hard to catch. It was nothing unusual to set the seine seven or eight times during the day and not stop a fish.

From Maine comes the report that there are no mackerel on that coast, and it is high time for them to make their appearance, but it looks like a failure down there this season.

#### HAS MONSTER TRIP.

Sch. Lizzie M Stanley Got 185,000 Pounds Cod in Four Weeks.

Sch. Lizzie M. Stanley, Capt. George Nelson, after being absent four weeks, arrived today from the eastern fishing grounds off Nova Scotia, with a monster trip of fresh mixed fish, consisting of 185,000 pounds and 3000 pounds of halibut.

This is the second shacking trip which Capt. Nelson has made since late in April, and the record he is making is equal to the best.

Capt. Nelson is one of the most progressive young skippers sailing out of this port, and the record he is now making and has always made has been satisfactory to all concerned.

## GLOUCESTER FISH RECEIPTS.

### Salt Cod, Fresh Fish and Fresh Mackerel Here Today.

Sch. Olympia from drifting with 70,000 pounds of salt cod, sch. Mary B. Greer with 45,000 pounds of fresh mixed fish and one fare of 3000 fresh mackerel are at this port this morning.

The shore boats landed no fish, as they are still finding a great scarcity. Not for a long time has such a condition existed on the shore as has been the last two months for no fish have practically been taken by the boats which conduct this branch of this industry.

Sch. Lizzie M. Stanley arrived shortly before noon from Quero Bank with a fine fare of 185,000 pounds of fresh fish and 3000 pounds of halibut.

#### Today's Arrivals and Receipts.

The arrivals and receipts in detail are:

Sch. Olympia, Western Bank, 70,000 lbs. salt cod.  
Sch. Mary B. Greer, via Boston, 45,000 lbs. fresh mixed fish.  
Sch. Sadie M. Nunan, via Boston.  
Sch. Electric Flash, seining, 2000 fresh mackerel.  
Sch. Benjamin A. Smith, seining.  
Steamer Bessie M. Dugan, seining.  
Steamer Bryda F., seining.  
Steamer Yankee, shore.  
Sch. Lizzie M. Stanley, Quero Bank, 185,000 lbs. fresh fish, 3000 lbs. halibut.

#### Today's Fish Market.

Fresh mackerel, 34 cts. each.  
Large halibut cod, \$3 per cwt.; medium cod, \$2.75; snappers, \$1.50.  
Trawl salt Georges cod, large, \$3.50; mediums, \$3.  
Large salt handline Georges cod, \$3.50; mediums, \$3.00.  
Trawl bank cod, large, \$3 per cwt.; medium, \$2.75; snappers, \$1.50.  
Salt cusk, large, \$2.50 per cwt.; medium, \$2; snappers, \$1.  
Salt pollock, \$1.25 per cwt.; salt haddock, \$1.25; salt hake, \$1.25.  
Round pollock, 70 cts. per cwt.; Outside sales, trawl bank cod, \$3.35 per qtl. for large and \$3 for medium.  
Outside sales dory handline bank cod, \$3.65 per qtl. for large and \$3.37 1-2 for medium.  
dressed pollock, 75 cts.  
Splitting prices for fresh fish, Western cod, large \$2 per cwt.; medium do., \$1.65; Eastern cod, large, \$1.60; medium cod, \$1.40; cusk, \$1.60 for large, \$1.20 for medium and 50c for snappers; haddock, 80 cts.; hake, 90 cts.; pollock, round, 65 cts.; dressed, 70 cts.

#### Vessels Sailed.

Sch. Mary DeCosta, haddocking.  
Sch. Moaniam, shacking.  
Sch. Edith Silveira, haddocking.  
Sch. Elizabeth W. Nunan, haddocking.  
Sch. Lafayette, swordfishing.  
Sch. Rena A. Percy, shacking.  
Sch. Grace Otis, drifting.  
Sch. Sadie M. Nunan, swordfishing.  
Sch. Aloha, seining.

#### Fishing Fleet Movements.

Schs. Cynthia, Vanessa and Manhasset arrived at Canso, N. S., Monday last.

Sch. Margie Feener arrived at Liverpool Monday last for ice and bait.

July 21.

#### Fisherman Fined in Lynn.

Joseph Samarto, a Boston fisherman, was fined \$100 by Judge Lummas in the Lynn police court yesterday for torching for herring off Swampscott Tuesday night. The capture was made by Game Warden Burney and Patrolman Pedrick of Swampscott. Complaints were also filed against Tony Ramboni and Salvator Arbono, who were in the boat with Samarto at the time.

July 22.

## FISH RECEIPTS INCREASING.

### Several Good-Sized Fares at This Port Today.

The receipts of fish at this port today make a better showing than for the last two or three weeks, although they are not what they should be, when the arrivals and fishing in which they have been engaged are taken into consideration.

Among the vessels in port today are three from dory handline trips, none of which has hardly more than a half fare.

Heading the list is sch. Avalon with 235,000 pounds of salt cod, sch. Elector with 145,000 pounds and sch. Flirt with 110,000 pounds. The skippers of those vessels report very slack fishing for the handliners. Squid had only struck on the bank in small quantities, and some days they would get enough for the dories, and then there would be none for two or three days. They report seeing sch. Tattler a few days ago with 150,000 pounds. In view of this report, and the lateness of the vessels to arrive on their first trips, it would seem that a shortage of codfish is evident.

Another arrival today is that of sch. James F. Parker with a large fare of 180,000 pounds of fresh mixed fish, and 4000 pounds of halibut. Sch. Clara G. Silva of Boston, brought down to the splitters 100,000 pounds of fresh mixed fish, which Boston dealers would not handle yesterday. Sch. Walter P. Goulart brought in 25,000 pounds of fresh mixed fish to the splitters. In addition, three seiners arrived, none of whom have any mackerel.

Sch. Madonna, another of the dory handlining fleet, arrived during the forenoon with 130,000 pounds salt cod.

Sch. Ella M. Goodwin, another of the handlining fleet, also reached her wharf at noon with a good fare of 225,000 pounds of salt cod.

#### Today's Arrivals and Receipts.

Sch. Avalon, Quero Bank, 235,000 lbs. salt cod.  
Sch. Elector, Quero Bank, 145,000 lbs. salt cod.  
Sch. Flirt, Quero Bank, 110,000 lbs. salt cod.  
Sch. James W. Parker, Western Bank, 180,000 lbs. fresh mixed fish, 4000 lbs. halibut.  
Sch. Clara G. Silva, via Boston, 100,000 lbs. fresh mixed fish.  
Sch. Maud F. Silva, George's, 50,000 lbs. fresh mixed fish.  
Sch. Walter P. Goulart, South Channel, 25,000 fresh mixed fish.  
Sch. Premier, seining.  
Sch. Rex, seining.  
Sch. Constellation, seining.  
Sch. Madonna, Quero Bank, 130,000 lbs salt cod.  
Sch. Walter P. Goulart, via Boston.  
Sch. Leo, via Boston.  
Sch. Ella M. Goodwin, Quero Bank, 225,000 lbs. salt cod.

#### Vessels Sailed.

Sch. Jennie H. Gilbert, swordfishing.  
Sch. Catherine Burke, halibuting.  
Sch. Terra Nova, shacking.

#### Today's Fish Market.

Fresh mackerel, 34 cts. each.  
Large halibut cod, \$3 per cwt.; medium cod, \$2.75; snappers, \$1.50.  
Trawl salt Georges cod, large, \$3.50; mediums, \$3.  
Large salt handline Georges cod, \$3.50; mediums, \$3.00.  
Trawl bank cod, large, \$3 per cwt.; medium, \$2.75; snappers, \$1.50.  
Salt cusk, large, \$2.50 per cwt.; medium, \$2; snappers, \$1.  
Salt pollock, \$1.25 per cwt.; salt haddock, \$1.25; salt hake, \$1.25.  
Round pollock, 70 cts. per cwt.; Outside sales, trawl bank cod, \$3.35 per qtl. for large and \$3 for medium.  
Outside sales dory handline bank cod, \$3.65 per qtl. for large and \$3.37 1-2 for medium.  
dressed pollock, 75 cts.  
Splitting prices for fresh fish, Western cod, large \$2.25 per cwt.; medium do., \$1.80; Eastern cod, large, \$1.75; medium cod, \$1.60; cusk, \$1.60 for large, \$1.20 for medium and 50c for snappers; haddock, \$1; hake, \$1; pollock, round, 65c; dressed, 70c.